
2000 Wis Eth Bd 02
LOCAL CODE - DISQUALIFICATION

The Ethics Board advises that:

In the case of a county board supervisor who has been selected as a member of an insurance company's board of directors by the company's organizer, the supervisor should not participate in county board consideration, discussion, or votes to award a contract to the company or to change county policy to permit the purchase of services from the company.

Facts

¶1 This opinion is based upon these understandings:

- a. You are a county corporation counsel.
- b. A member of the county board of supervisors is also a member of the board of directors of a mutual insurance company.
- c. The insurance company sells liability insurance and other services to counties and other local units of government.
- d. The county is a founding member of the insurance company.
- e. As an insured party, the county is also a part owner of the company.
- f. The company's board of directors is chosen by an organization that created the insurance company.
- g. Members of the company's board of directors receive per diems and expense reimbursement for board meetings.

Questions

¶2 The Ethics Board understands your question to be:

How, if at all, does §19.59, *Wisconsin Statutes*, restrict the supervisor who is a member of the insurance company's board of directors from participating in a county board decision to award a contract to the company or to change county policy to permit the purchase of services from the company?

Discussion

¶3 Wisconsin's Code of Ethics for Local Government Officials applies to your question. Section 19.59(1)(a) and (c)2., *Wisconsin Statutes*, provides:

No local public official
May use his or her office or position
To obtain anything of substantial value or a substantial benefit
For an organization with which the official is associated.¹

¶4 Section 19.59(1)(c)1., *Wisconsin Statutes*, provides:

No local public official
May take any official action
Substantially affecting a matter
In which an organization with which the official is associated
Has a substantial financial interest.²

¶5 Your question raises two issues: (1) whether the insurance company is an organization with which the supervisor is associated and (2) whether awarding a contract to the insurance company or changing county policy to

¹ Section 19.59(1)(a) and (c)2., *Wisconsin Statutes*, provides:

19.59 Codes of ethics for local government officials, employees and candidates. (1)(a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. A violation of this paragraph includes the acceptance of free or discounted admissions to a professional baseball or football game by a member of the district board of a local professional baseball park district created under subch. III of ch. 229 or a local professional football stadium district created under subch. IV of ch. 229. This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by ch. 11.

(c) Except as otherwise provided in par. (d), no local public official may:
2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

² Section 19.59(1)(c)1., *Wisconsin Statutes*, provides:

19.59(1)(c) Except as otherwise provided in par. (d), no local public official may:
1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

permit the county to purchase services from the company is a substantial private benefit or of substantial financial interest to the company.

Organization with which associated

¶6 In the situation you have described, the county board supervisor is associated with the insurance company by virtue of being a member of the company's board of directors.

¶7 Section 19.42(11), *Wisconsin Statutes*, defines "organization" as

any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity *other than an individual or body politic*.

¶8 Section 19.42(2), *Wisconsin Statutes*, provides

"Associated", when used with reference to an organization, includes any organization in which an individual . . . is a director, officer or trustee . . . or of which an individual . . . is an authorized representative or agent.

¶9 The insurance company is a corporation and the supervisor is a director of the company.

¶10 The fact that the county is a founder and part owner of the company does not change the analysis. In a prior decision, 1999 Wis Eth Bd 9, ¶9, the Ethics Board said that a local official appointed by local ordinance to represent a local unit of government and its interests on a board of directors of an organization does not thereby become associated with that organization. A local elected official appointed in that circumstance serves in a representational, and not an individual, capacity. But that is not the case here. The supervisor has not been chosen by the county and does not appear to be serving on the insurance company's board of directors as the county's representative.

Substantial financial benefit and interest

¶11 An insurance contract or the ability to sell services to the county appears to have substantial financial value to the company. That the county is a part owner of the insurance company and may ultimately decide that it will benefit from a decision to contract with the company does not diminish the private benefit to the company. Moreover, as you point out in your letter, the interests of the county and the company are not identical and, indeed, may be adversarial in some circumstances. We agree with you that while the county may be a part owner of the company, the county's interest and the company's interest are not the same.

Advice

¶12 A county board supervisor who is a member of an insurance company's board of directors should not participate in county board consideration, discussion, or votes to award a contract to the company or to change county policy to permit the purchase of services from the company.

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